

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

PAULA CLAYTON MOWLES,	§	
	§	
Plaintiff,	§	
	§	
v.	§	C.A. No. 4:16-cv-281
	§	
NEW YORK LIFE INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	

**INDEX OF STATE COURT DOCUMENTS**

Defendant American Heritage Life Insurance Company submits the index of state court documents as follows:

	<b><u>Document</u></b>	<b><u>Date Filed</u></b>
A.	Docket Sheet	04/19/2016
B.	Plaintiff's Original Petition	03/15/2016
C.	Service of Process Transmittal with Petition and Citation as served on Defendant	03/31/2016
D.	Citation Return	04/01/2016
E.	Defendant's Original Answer	04/21/2016

Dated: April 21, 2016

Respectfully submitted,

By: /s/ Andrew G. Jubinsky

Andrew G. Jubinsky  
Texas Bar No. 11043000  
[andy.jubinsky@figdav.com](mailto:andy.jubinsky@figdav.com)  
Daniel M. Branum  
Texas Bar No. 24064496  
[dan.branum@figdav.com](mailto:dan.branum@figdav.com)

**FIGARI + DAVENPORT, L.L.P.**

901 Main Street, Suite 3400

Dallas, Texas 75202

Telephone: (214) 939-2000

Facsimile: (214) 939-2090

ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been served on the parties listed below on April 21, 2016.

**Via CMRRR:**

G. Craig Hubble

[gcraighubble@gmail.com](mailto:gcraighubble@gmail.com)

The Hubble Law Firm, P.L.L.C.

301 W. Abram Street

Arlington, TX 76010

/s/ Andrew G. Jubinsky

Andrew G. Jubinsky



## Tarrant County District Clerk Online

Thomas A. Wilder, District Clerk

Civil - Case and Transaction Information

4/19/16 10:09 AM

Cause Number: 067-284370-16

Date Filed: 03-15-2016

PAULA CLAYTON MOWLES

| VS |

NEW YORK LIFE INSURANCE  
COMPANY

Cause of Action: OTHER CIVIL, OTHER

Case Status: PENDING

File Mark	Description		Assessed Fee	Credit/Paid Fee
03-15-2016	<a href="#">PLTF'S ORIG PET</a>	N	<a href="#">284.00</a>	
		<a href="#">I</a>		
03-15-2016	<a href="#">COURT COST (PAID) trans #1</a>	Y		<a href="#">284.00</a>
03-15-2016	<a href="#">CIVIL INFO SHEET</a>			<a href="#">0.00</a>
03-15-2016	<a href="#">COPIES - ELECTRONIC (SENT DOC PROD)</a>	N	<a href="#">1.40</a>	
03-15-2016	<a href="#">COURT COST (PAID) trans #4</a>	Y		<a href="#">1.40</a>
03-15-2016	<a href="#">CIT-ISSUED ON NEW YORK LIFE INSURANCE COMPANY-On</a>	N	<a href="#">8.00</a>	
	<a href="#">03/16/2016</a>	<a href="#">Svc</a>		
03-15-2016	<a href="#">COURT COST (PAID) trans #6</a>	Y		<a href="#">8.00</a>
03-15-2016	<a href="#">E-FILE TRANSACTION FEE</a>	N	<a href="#">2.00</a>	
03-15-2016	<a href="#">COURT COST (PAID) trans #8</a>	Y		<a href="#">2.00</a>
04-01-2016	<a href="#">CIT Tr# 6 RET EXEC(NEW YORK LIFE INSURANCE</a>	<a href="#">I</a>		<a href="#">0.00</a>
	<a href="#">COMPANY ) On 03/31/2016</a>			

### District Clerk's Office

Tom Vandergriff Civil Courts Building

100 N. Calhoun St., 2nd Floor, Fort Worth, Texas 76196, [Contact Us](#)

Please send questions and comments regarding the District Clerk web site to [District Clerk Webmaster](#)



NO. 067-284370-16

PAULA CLAYTON MOWLES,  
Plaintiff,  
v.  
NEW YORK LIFE INSURANCE COMPANY,  
Defendant.

IN THE DISTRICT COURT  
\_\_\_\_ JUDICIAL DISTRICT  
TARRANT COUNTY, TEXAS



### PLAINTIFF'S ORIGINAL PETITION

#### TO THE HONORABLE COURT:

PAULA CLAYTON MOWLES, the plaintiff, complains of NEW YORK LIFE INSURANCE COMPANY, the defendant, and for cause of action shows:

#### 1. Selection of Discovery Level

The plaintiff affirmatively pleads that she seeks monetary relief in excess of \$100,000, including damages of any kind, penalties, costs, expenses, prejudgment interest, and attorney's fees, so that this action is not subject to the expedited actions process of Civil Procedure Rule 169 and discovery should therefore be conducted under Level 3, Civil Procedure Rule 190.

#### 2. Parties and Service of Citation

The plaintiff is an individual residing in Tarrant County, Texas]. The defendant, NEW YORK LIFE INSURANCE COMPANY, is a life insurance company duly formed and existing under the laws of the State of New York. Said Defendant does business in the State of Texas and has agents located in Tarrant County, Texas. Citation may be served upon Defendant's registered agent for service, CT CORPORATION SYSTEM, 350 North Saint Paul Street, Dallas, TX 75201.

#### 3. Relationship of Parties

On or about May 27, 2014, the defendant issued a "policy of life insurance written contract" insuring the life of John Jenkins, being Contract No. A7519949 (now referred to by Claim No. LC-230061), pursuant to which Defendant, in exchange for payment of the agreed insurance premium, obligated itself to pay \$50,000.00 to Plaintiff, the named beneficiary, in the event of the death of John Jenkins.

#### 4. Defendant's Breach of Contract

John Jenkins died on January 21, 2015 due to lung cancer – a condition which had never been diagnosed or treated before the application for the life insurance policy in question was submitted. Nevertheless, despite notice and demand for payment, Defendant, without justification, has failed and refused to perform its obligation under the life insurance contract in question to pay the sum of \$50,000.00 to Plaintiff. Such failure is a breach of the contract, for which Plaintiff here sues.

## **5. Deceptive Trade Practices**

Defendant has given purported reasons for its denial of the claim in question. Specifically, Defendant has claimed that the claim was denied because the insured, John Jenkins, failed to disclose on his application certain medical conditions he has been diagnosed with and certain medications he had been prescribed. Nevertheless, on at least one prior occasion, John Jenkins had disclosed the same or similar medical conditions to the Defendant and had disclosed the same or similar prescribed medications to the Defendant. On those prior occasions, Defendant had approved the applications for life insurance. On information and belief, Plaintiff will show that the Defendant routinely approves applications for life insurance without any investigation and then, after the death of the insured, conducts an investigation for the purpose of finding grounds to refuse payment of the amount of the insurance.

Defendant:

1. In violation of Section 64.060, Texas Insurance Code, Defendant engaged in an unfair method of competition or an unfair or deceptive act of practice in the business of insurance by engaging in the following unfair settlement practices with respect to a claim by an insured or beneficiary:

- a. misrepresenting to a claimant a material fact or policy provision relating to coverage at issue;
- b. failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability had become reasonably clear;
- c. failing to disclose to the insured the consequences of failing to list all medication and all medical conditions on the application in question
- d. failing to disclose to the insured the necessity of listing all medications and all medical conditions on an application even if such conditions and medications had previously been disclosed to the Defendant.

2. In violation of Section 17.50, Texas Business and Commerce Code, Defendant engaged in deceptive acts or practices by:

- a. misrepresenting to a claimant a material fact or policy provision relating to coverage at issue;
- b. failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability had become reasonably clear;
- c. failing to disclose to the insured the consequences of failing to list all medication and all medical conditions on the application in question
- d. failing to disclose to the insured the necessity of listing all medications and all medical conditions on an application even if such conditions and medications had previously been disclosed to the Defendant.
- e. Generally engaging in an unconscionable action or course of action by routinely approving applications for life insurance without any investigation and then, after the death of the insured, conducting an investigation for the purpose of finding grounds to refuse payment of the amount of the insurance provided for by the life insurance contract. In so doing, Defendant has failed to consistently follow objective underwriting guidelines both before and after issuance of the life insurance policy in question.

3. As a result of the foregoing violations of the Texas Business and Commerce Code and the Texas Insurance Code, Plaintiff suffered actual damages in the amount of \$50,000.00, plus attorney fees.

4. The conduct of the defendant as described in this petition was committed knowingly. The defendant was actually aware, at the time of the conduct, of the falsity, deception, and unfairness of the conduct about which plaintiff complains. Accordingly, the defendant is liable to plaintiff for actual damages suffered by the plaintiff and additional damages of up to three times the amount of economic damages as permitted by the Deceptive Trade Practices—Consumer Protection Act.

### **6. Declaratory Judgment**

Plaintiff request the Court to render a Declaratory Judgment under the provisions of the Texas Uniform Declaratory Judgments Act, Sections 37.001, et.seq., Texas Civil Practice & Remedies Code. Plaintiff requests the Court to declare the rights of the parties under the terms and provisions of the life insurance contract and, specifically, to make a determination that, under the circumstances of this case, Plaintiff is entitled to recover the sum of \$50,000.00 under the terms of the policy in question.

### **7. Damages**

As a result of the defendant's breach of the agreement, as set out in in the preceding paragraphs of this petition, the plaintiff has sustained financial harm and has lost the benefits expected to be received from the contract if the defendant had performed as promised, in the amount of \$50,000.00. The plaintiff asks for judgment against the defendant for damages in the amount of \$50,000.00.

### **8. Attorney's Fees**

The plaintiff is entitled to recover, and here sues for, reasonable attorney's fees for the preparation and prosecution of this suit for trial and for each level of appeal from any judgment rendered in this Court or any appellate court. This is a claim on a written contract within the meaning of Texas Civil Practice and Remedies Code Section 38.001. The plaintiff perfected her right to fees under this statute in that the plaintiff presented a claim for payment on the contract to the defendant. The claim was made by several letters mailed to the defendant more than thirty (30) days before the date this suit is filed. More than 30 days have elapsed since the defendant received the letter, and payment for the just amount owed has not been tendered by the defendant.

Further, Plaintiff is entitled to recover such fees under the applicable provisions of the Texas Deceptive Trade Practice Act.

Further, Plaintiff is entitled to recover attorney fees under Section 37.009, Civil Practice & Remedies Code.

The plaintiff has been required to retain the services of counsel to prosecute this action. The sum of \$15,000.00 is a reasonable sum for the prosecution of this action to judgment. In the event of an appeal to the court of appeals, a further sum of \$7,500.00 would be a reasonable attorney's fee. In the event of a further appeal to the Texas Supreme Court, a further sum of \$7,500.00 would be a reasonable attorney's fee.

### **8. Performance of Conditions**

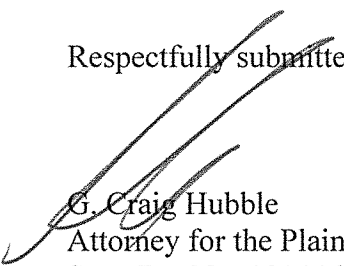
All conditions precedent for filing of this suit and for recovery of the relief sought herein have been performed or have occurred.

### **PRAYER**

WHEREFORE, the plaintiff requests that the defendant be cited to appear and answer, and that, on final trial, the plaintiff have and recover judgment against the defendant as follows:

1. General damages in the amount of \$50,000.00.
2. Prejudgment interest as provided by law.
3. Treble damages under the DTPA;
4. Attorney's fees.
4. Postjudgment interest as provided by law.
5. Costs of suit.
6. Such other and further relief to which the plaintiff may be entitled.

Respectfully submitted,



G. Craig Hubble  
Attorney for the Plaintiff  
State Bar No. 10144600

The Hubble Law Firm, PLLC  
301 W. Abram Street  
Arlington, TX 76010  
Ph. 817-265-7771  
Fax 817-861-9008  
Email: gcraighubble@gmail.com



CT Corporation

**Service of Process  
Transmittal**

03/31/2016

CT Log Number 528913680

**TO:** Robert Karmen  
New York Life Insurance Company  
51 Madison Avenue, 10th Floor  
New York, NY 10010

**RE: Process Served in Texas**

**FOR:** New York Life Insurance Company (Domestic State: NY)  
*According to our records representation services for this entity have been discontinued in this jurisdiction.*

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** PAULA CLAYTON MOWLES, Pltf. vs. NEW YORK LIFE INSURANCE COMPANY, Dft.

**DOCUMENT(S) SERVED:** Citation(s), Petition

**COURT/AGENCY:** 67th Judicial District Court Tarrant County, TX  
Case # 06728437016

**NATURE OF ACTION:** Insurance Litigation - Claim for policy benefits

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Dallas, TX

**DATE AND HOUR OF SERVICE:** By Process Server on 03/31/2016 at 13:35

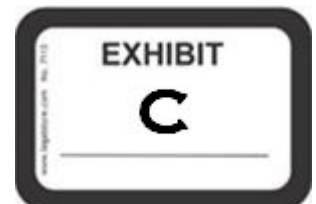
**JURISDICTION SERVED :** Texas

**APPEARANCE OR ANSWER DUE:** At or before 10 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service

**ATTORNEY(S) / SENDER(S):** G CRAIG HUBBLE  
301 W Abram St.  
Arlington, TX 76010  
817-265-7771

**ACTION ITEMS:** SOP Papers with Transmittal, via Fed Ex 2 Day , 782723087218  
Image SOP  
Email Notification, Joseph Berrafati joseph\_berrafati@newyorklife.com  
Email Notification, Martha Sarnotsky msarnots@nyl.com  
Email Notification, Antonio Gonzalez Antonio\_Gonzalez@NewYorkLife.Com  
Email Notification, Robert Karmen robert\_karmen@newyorklife.com  
Email Notification, Susan Maisel susan\_maisel@newyorklife.com  
Email Notification, Rose M. Sepulveda rose\_m\_sepulveda@newyorklife.com  
Email Notification, Kim M. Smith kim\_m\_smith@newyorklife.com

**SIGNED:** C T Corporation System  
**ADDRESS:** 1999 Bryan St Ste 900







CT Corporation

**Service of Process  
Transmittal**

03/31/2016

CT Log Number 528913680

**TO:** Robert Karmen  
New York Life Insurance Company  
51 Madison Avenue, 10th Floor  
New York, NY 10010

**RE: Process Served in Texas**

**FOR:** New York Life Insurance Company (Domestic State: NY)  
*According to our records representation services for this entity have been discontinued in this jurisdiction.*

**TELEPHONE:** Dallas, TX 75201-3140  
214-932-3601

**THE STATE OF TEXAS  
DISTRICT COURT, TARRANT COUNTY**

SERVICE COPY

## CITATION

Cause No. 067-284370-16

PAULA CLAYTON MOWLES  
VS.  
NEW YORK LIFE INSURANCE COMPANY

TO: NEW YORK LIFE INSURANCE COMPANY

B/S REG AGENT-CT CORPORATION SYSTEM 350 N ST PAUL ST DALLAS, TX 75201-

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 67th District Court, 100 N CALHOUN, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

PAULA CLAYTON MOWLES

Filed in said Court on March 15th, 2016 Against  
NEW YORK LIFE INSURANCE COMPANY

For suit, said suit being numbered 067-284370-16 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

G CRAIG HUBBLE

Attorney for PAULA CLAYTON MOWLES Phone No. (817)265-7771  
Address 301 W ABRAHAM ST ARLINGTON, TX 76010

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 16th day of March, 2016.

By Lisa Letbetter Deputy  
LISA LETBETTER

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Thomas A. Wilder, Tarrant County District Clerk, 100 N CALHOUN, FORT WORTH TX 76196-0402

## OFFICER'S RETURN

Received this Citation on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_M; and executed at \_\_\_\_\_ within the county of \_\_\_\_\_, State of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_M on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by delivering to the within named (Def.): \_\_\_\_\_ defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: \_\_\_\_\_

County of \_\_\_\_\_ State of \_\_\_\_\_ By \_\_\_\_\_ Deputy

Fees \$ \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_ (Must be verified if served outside the State of Texas)

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

to certify which witness my hand and seal of office

(Seal)

County of \_\_\_\_\_, State of \_\_\_\_\_

Cause No. 067-284370-16

PAULA CLAYTON MOWLES

VS.

NEW YORK LIFE INSURANCE  
COMPANY

ISSUED

This 16th day of March, 2016

Thomas A. Wilder  
Tarrant County District Clerk  
100 N CALHOUN  
FORT WORTH TX 76196-0402

By LISA LETBETTER Deputy

G CRAIG HUBBLE  
Attorney for: PAULA CLAYTON MOWLES  
Phone No. (817)265-7771  
ADDRESS: 301 W ABRAM ST

ARLINGTON, TX 76010

**CIVIL LAW**



\*06728437016000006\*

SERVICE FEES NOT COLLECTED  
BY TARRANT COUNTY DISTRICT CLERK  
SERVICE COPY

FILED  
TARRANT COUNTY  
3/15/2016 2:57:11 PM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 067-284370-16

**PAULA CLAYTON MOWLES,**  
**Plaintiff,**  
**v.**  
**NEW YORK LIFE INSURANCE COMPANY,**  
**Defendant.**

**IN THE DISTRICT COURT**

**\_\_\_\_ JUDICIAL DISTRICT**

**TARRANT COUNTY, TEXAS**

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE COURT:**

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The plaintiff affirmatively pleads that she seeks monetary relief in excess of \$100,000, including damages of any kind, penalties, costs, expenses, prejudgment interest, and attorney's fees, so that this action is not subject to the expedited actions process of Civil Procedure Rule 169 and discovery should therefore be conducted under Level 3, Civil Procedure Rule 190.

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The plaintiff is an individual residing in Tarrant County, Texas]. The defendant, NEW YORK LIFE INSURANCE COMPANY, is a life insurance company duly formed and existing under the laws of the State of New York. Said Defendant does business in the State of Texas and has agents located in Tarrant County, Texas. Citation may be served upon Defendant's registered agent for service, CT CORPORATION SYSTEM, 350 North Saint Paul Street, Dallas, TX 75201.

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John Jenkins died on January 21, 2015 due to lung cancer – a condition which had never been diagnosed or treated before the application for the life insurance policy in question was submitted. Nevertheless, despite notice and demand for payment, Defendant, without justification, has failed and refused to perform its obligation under the life insurance contract in question to pay the sum of \$50,000.00 to Plaintiff. Such failure is a breach of the contract, for which Plaintiff here sues.

067-284370-16

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067-284370-16

3. As a result of the foregoing violations of the Texas Business and Commerce Code and the Texas Insurance Code, Plaintiff suffered actual damages in the amount of \$50,000.00, plus attorney fees.

4. The conduct of the defendant as described in this petition was committed knowingly. The defendant was actually aware, at the time of the conduct, of the falsity, deception, and unfairness of the conduct about which plaintiff complains. Accordingly, the defendant is liable to plaintiff for actual damages suffered by the plaintiff and additional damages of up to three times the amount of economic damages as permitted by the Deceptive Trade Practices—Consumer Protection Act.

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Plaintiff request the Court to render a Declaratory Judgment under the provisions of the Texas Uniform Declaratory Judgments Act, Sections 37.001, et.seq., Texas Civil Practice & Remedies Code. Plaintiff requests the Court to declare the rights of the parties under the terms and provisions of the life insurance contract and, specifically, to make a determination that, under the circumstances of this case, Plaintiff is entitled to recover the sum of \$50,000.00 under the terms of the policy in question.

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As a result of the defendant's breach of the agreement, as set out in in the preceding paragraphs of this petition, the plaintiff has sustained financial harm and has lost the benefits expected to be received from the contract if the defendant had performed as promised, in the amount of \$50,000.00. The plaintiff asks for judgment against the defendant for damages in the amount of \$50,000.00.

### **8. Attorney's Fees**

The plaintiff is entitled to recover, and here sues for, reasonable attorney's fees for the preparation and prosecution of this suit for trial and for each level of appeal from any judgment rendered in this Court or any appellate court. This is a claim on a written contract within the meaning of Texas Civil Practice and Remedies Code Section 38.001. The plaintiff perfected her right to fees under this statute in that the plaintiff presented a claim for payment on the contract to the defendant. The claim was made by several letters mailed to the defendant more than thirty (30) days before the date this suit is filed. More than 30 days have elapsed since the defendant received the letter, and payment for the just amount owed has not been tendered by the defendant.

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The plaintiff has been required to retain the services of counsel to prosecute this action. The sum of \$15,000.00 is a reasonable sum for the prosecution of this action to judgment. In the event of an appeal to the court of appeals, a further sum of \$7,500.00 would be a reasonable attorney's fee. In the event of a further appeal to the Texas Supreme Court, a further sum of \$7,500.00 would be a reasonable attorney's fee.

067-284370-16

### **8. Performance of Conditions**

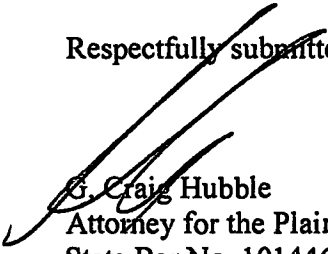
All conditions precedent for filing of this suit and for recovery of the relief sought herein have been performed or have occurred.

### **PRAYER**

WHEREFORE, the plaintiff requests that the defendant be cited to appear and answer, and that, on final trial, the plaintiff have and recover judgment against the defendant as follows:

1. General damages in the amount of \$50,000.00.
2. Prejudgment interest as provided by law.
3. Treble damages under the DTPA;
4. Attorney's fees.
4. Postjudgment interest as provided by law.
5. Costs of suit.
6. Such other and further relief to which the plaintiff may be entitled.

Respectfully submitted,

  
G. Craig Hubble  
Attorney for the Plaintiff  
State Bar No. 10144600

The Hubble Law Firm, PLLC  
301 W. Abram Street  
Arlington, TX 76010  
Ph. 817-265-7771  
Fax 817-861-9008  
Email: gcraighubble@gmail.com

CITATION

Cause No. 067-284370-16

PAULA CLAYTON MOWLES  
VS.  
NEW YORK LIFE INSURANCE COMPANY

TO: NEW YORK LIFE INSURANCE COMPANY

B/S REG AGENT-CT CORPORATION SYSTEM 350 N ST PAUL, DALLAS, TX 75201

FILED  
TARRANT COUNTY  
2016 APR 1 PM 3:52  
THOMAS A. WILDER  
DISTRICT CLERK

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 67th District Court, 100 N CALHOUN, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

PAULA CLAYTON MOWLES

Filed in said Court on March 15th, 2016 Against  
NEW YORK LIFE INSURANCE COMPANY

For suit, said suit being numbered 067-284370-16 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

G CRAIG HUBBLE

Attorney for PAULA CLAYTON MOWLES Phone No. (817)265-7771  
Address 301 W ABRAM ST ARLINGTON, TX 76010

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 15th day of March, 2016.

By Lisa Letbetter Deputy  
LISA LETBETTER

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Thomas A. Wilder, Tarrant County District Clerk, 100 N CALHOUN, FORT WORTH TX 76196-0402

OFFICER'S RETURN

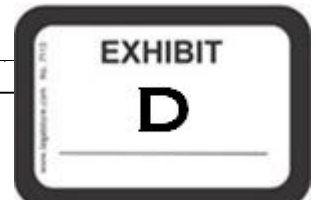
Received this Citation on the 29<sup>th</sup> day of MARCH, 2016 at 3:35 o'clock PM; and executed at 1999 BRYAN ST #900, DALLAS within the county of DALLAS, State of TEXAS at 1:35 o'clock PM on the 31<sup>st</sup> day of MARCH, 2016 by delivering to the within named (Defendant) GREG W. TRESIDDER a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: G.W. TRESIDDER  
County of TARRANT State of TEXAS By G.W. TRESIDDER

Fees \$  
State of TEXAS County of TARRANT (Must be verified if served outside the State of Texas)  
Signed and sworn to by the said GREG W. TRESIDDER before me this 1<sup>st</sup> day of APRIL, 2016  
to certify which witness my hand and seal of office  
(Seal)



Mary R. Griggs  
County of TARRANT State of TX





**CITATION**

FILED  
TARRANT COUNTY  
APR 13 2016  
CLERK  
THOMAS A. WILDER  
DISTRICT CLERK  
Cause No. 067-284370-16  
PAULA CLAYTON MOWLES  
VS.  
NEW YORK LIFE INSURANCE  
COMPANY  
ISSUED

This 16th day of March, 2016

Thomas A. Wilder  
Tarrant County District Clerk  
100 N CALHOUN  
FORT WORTH TX 76196-0402

By LISA LETBETTER Deputy

G CRAIG HUBBLE  
Attorney for: PAULA CLAYTON MOWLES  
Phone No. (817)265-7771  
ADDRESS: 301 W ABRAM ST  
ARLINGTON, TX 76010  
CIVIL LAW



\*06728437016000006\*

SERVICE FEES NOT COLLECTED

BY TARRANT COUNTY DISTRICT CLERK

ORIGINAL

CAUSE NO. 067-284370-16

PAULA CLAYTON MOWLES, § IN THE DISTRICT COURT OF  
Plaintiff, §  
v. §  
NEW YORK LIFE INSURANCE § TARRANT COUNTY, TEXAS  
COMPANY, §  
Defendant. § 67<sup>TH</sup> JUDICIAL DISTRICT

**DEFENDANT'S ORIGINAL ANSWER**

Defendant files its original answer, and states:

**I. GENERAL DENIAL**

1. Subject to such admissions and stipulations as may be made at or before time of trial, Defendant denies generally and specially the material allegations in the Petition, pursuant to TEX. R. CIV. P. 92, and demands strict proof thereof in accordance with the requirements of the laws of this state.

**II. AFFIRMATIVE DEFENSES**

2. No benefits are payable under the subject Group Level Benefit Term Life Insurance Certificate no. A7519949 (the "Certificate"), and the Certificate is void and of no effect, pursuant to TEX. INS. CODE § 705.001, *et seq.*, due to material misrepresentations on the subject application for insurance.



3. Plaintiff's claims are barred, in whole or in part, by the doctrines of estoppel, ratification, waiver, and/or the economic loss rule.

4. Plaintiff's claims are barred, in whole or in part, by the failure to mitigate her alleged damages, if any.

5. Plaintiff's claims are barred, in whole or in part, by any contractual disclaimers, limitations, and exclusion of warranties, reliance, and representations contained in the Certificate.

6. Plaintiff's claims are barred, in whole or in part, by the doctrine of proportionate responsibility/comparative responsibility. Any recovery by Plaintiff must be reduced by a percentage equal to Plaintiff's percentage of responsibility or others in accordance with TEX. CIV. PRAC. & REM. CODE §§ 33.001, 33.003, and/or 33.012.

7. Every act or statement done or made by Defendant and its officers and employees with reference to Plaintiff was a good faith assertion of Defendant's rights and, therefore, was privileged and/or justified.

8. Alternatively, Plaintiff's claims are barred, in whole or in part, due to lack of reasonable reliance.

9. Plaintiff's claims are barred, in whole or in part, as the alleged damages, if any, were proximately caused by an intervening and/or superseding cause, including, but not limited to, the conduct of a party other than Defendant.

10. Plaintiff's claims are barred, in whole or in part, by the doctrine of unjust enrichment and/or assumption and the risk.

11. Plaintiff's claims are barred, in whole or part, because they did not survive the death of the insured.

### **III. REQUEST FOR RELIEF**

12. Defendant requests the following relief:

- (a) That Plaintiff take nothing by reason of her suit;
- (b) That Defendant be dismissed with its costs; and
- (c) That Defendant have such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Dated: April 20, 2016

Respectfully submitted,

By: /s/ Andrew G. Jubinsky  
Andrew G. Jubinsky  
Texas Bar No. 11043000  
[andy.jubinsky@figdav.com](mailto:andy.jubinsky@figdav.com)  
Daniel M. Branum  
Texas Bar No. 24064496  
[dan.branum@figdav.com](mailto:dan.branum@figdav.com)

**FIGARI + DAVENPORT, L.L.P.**  
901 Main Street, Suite 3400  
Dallas, Texas 75202  
Telephone: (214) 939-2000  
Facsimile: (214) 939-2090

ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been served on the parties listed below on April 20, 2016.

**Via efile.txcourts.gov:**

G. Craig Hubble

[gcraighubble@gmail.com](mailto:gcraighubble@gmail.com)

301 W. Abram Street

Arlington, TX 76010

/s/ Andrew G. Jubinsky

Andrew G. Jubinsky